

BILL ANALYSIS

Senate Research Center

S.B. 64
By: Moncrief
Health and Human Services
3-12-97
Committee Report (Amended)

DIGEST

Currently, Texas is one of only six states that does not have a law prohibiting or restricting smoking in state office buildings. In a survey of 24 large Texas state agencies conducted prior to the 73rd Legislature, Regular Session, 23 had some type of smoking policy: 14 had entirely smoke-free buildings and nine allowed smoking in designated areas such as cafeterias, restrooms, or private offices. This bill creates a more uniform smoking policy for state agencies by phasing in a prohibition of smoking in state buildings and at public hearings held by state agencies.

PURPOSE

As proposed, S.B. 64 requires each state agency to adopt a temporary written smoking policy, which would eventually be replaced by a complete smoking ban in any state building or at public hearings held by state agencies.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Board of Health in SECTION 1 (Sec. 166.008(a), Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2H, Health and Safety Code, by adding Chapter 166, as follows:

CHAPTER 166. SMOKING IN STATE BUILDINGS OR MEETINGS

Sec. 166.001. **PURPOSE.** Provides that the purpose of this chapter is to phase in a prohibition of smoking in state buildings and at state agencies' public hearings.

Sec. 166.002. **DEFINITIONS.** Defines "smoke," "smokes," "smoking," "state agency," and "state building."

Sec. 166.003. **SMOKING AT PUBLIC HEARING OR IN STATE BUILDING; CRIMINAL PENALTY.** Provides that a person commits a Class C misdemeanor if the person smokes in a state building after September 1, 1998, or if the person smokes outside of a designated area at a state building before September 1, 1998. Provides an exception.

Sec. 166.004. **DESIGNATION OF SMOKING AREAS.** (a) Requires the chief executive or designee of an agency permitting smoking to designate areas as smoking areas before September 1, 1998. Authorizes the lieutenant governor, speaker of the house, or their designees, to designate areas as smoking areas in buildings occupied by the legislature. Prohibits any part of a state building occupied by a state agency from being designated a smoking area after September 1, 1998.

(b) Requires existing structures to be used to minimize the effects of smoke in adjacent nonsmoking areas, but does not require an agency to make structural modifications to accommodate smoking areas.

(c) Requires each state agency to develop and implement a written smoking policy. Requires the nonsmokers' preferences to be accommodated if a dispute arises. Provides that this chapter does not prohibit a state agency from designating an entirely smoke-free environment.

(d) Prohibits certain areas from being designated as smoking areas.

Sec. 166.005. SIGNS. Requires the smoking policy to be posted at entrances to each state building. Requires all signs to be "No Smoking" signs after September 1, 1998.

Sec. 166.006. REASONABLE EFFORT TO PREVENT SMOKING. Requires a person authorized to designate smoking areas to make a reasonable effort to prevent smoking. Authorizes an affected person to bring court action if a smoker refuses to comply with a request to refrain from smoking. Provides that this section expires September 1, 1998.

Sec. 166.007. FACILITIES TO EXTINGUISH SMOKING MATERIALS. Requires all state buildings to be equipped with facilities for extinguishing smoking materials. Requires these facilities to be accompanied by "No Smoking" signs if they are located in non-smoking areas.

Sec. 166.008. ADMINISTRATION; WAIVER. Requires the Texas Board of Health (board) to adopt and implement rules necessary under this chapter. Authorizes the commissioner of health to waive the requirements of this chapter. Prohibits a waiver from being granted on or after September 1, 1998.

Sec. 166.009. INJUNCTION. Authorizes the board, another state agency, or any affected person to bring an action in any court of competent jurisdiction to enjoin a violation of this chapter.

SECTION 2. Requires each state agency required to adopt a written smoking policy to do so prior to January 1, 1998.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Committee Amendment No. 1: Amends SECTION 1, Section 106.002, Health and Safety Code, by inserting language on page 2, line 18, to redefine "state building" as a building wholly or partially owned or wholly leased by the state but not including a hotel, conference center, or dormitory owned and operated by an institution of higher education. Provides that this section does not prohibit the state agency or institution of higher education from designating an exempted building, hotel, conference center, or dormitory in part or in its entirety as a nonsmoking area.